

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

ALVIN BALDUS, CINDY BARBERA,
CARLENE BECHEN, ELVIRA BUMPUS,
RONALD BIENSDEIL, LESLIE W. DAVIS III,
BRETT ECKSTEIN, GEORGIA ROGERS,
RICHARD KRESBACH, ROCHELLE MOORE,
AMY RISSEUW, JUDY ROBSON, JEANNE
SANCHEZ-BELL, CECELIA SCHLIEPP, and
TRAVIS THYSSEN,

Plaintiffs,

v.

Case No. 11-CV-562

Members of the Wisconsin Government Accountability
Board, each only in his official capacity:
MICHAEL BRENNAN, DAVID DEININGER,
GERALD NICHOL, THOMAS CANE,
THOMAS BARLAND, and TIMOTHY VOCKE and
KEVIN KENNEDY, Director and General Counsel for the
Wisconsin Government Accountability Board,

Defendants.

**MOTION TO INTERVENE OF TAMMY BALDWIN,
GWENDOLYNNE MOORE AND RONALD KIND**

Tammy Baldwin, Ronald Kind and Gwendolynne Moore (hereinafter collectively
“Proposed Intervenor-Plaintiffs”), by their attorneys, Lawton & Cates S.C., hereby move the
Court for leave to intervene as plaintiffs in the instant action pursuant to Federal Rules of Civil
Procedure 24(a) and to file the accompanying [Proposed] Complaint-in-Intervention. As support
for their motions, the Proposed Intervenor-Plaintiffs state:

SUPPORT FOR MOTION

1. Proposed Intervenor-Plaintiffs are entitled to intervene in the instant action as a matter of right as parties claiming an interest. Fed. R. Civ. P. 24 (a)(1). Proposed Intervenor-Plaintiffs are all adult citizens of the State of Wisconsin and are all of Wisconsin's incumbent Democratic Members of the United States House of Representatives, representing three of Wisconsin's Congressional districts. As a result of their elected positions as Representatives who are running or may run for re-election to those positions in 2012, the Proposed Intervenor-Plaintiffs have a direct interest in the proper redistricting of Wisconsin's Congressional districts.

2. On November 10, 2011, the Wisconsin's Republican Members of the House of Representatives, F. James Sensenbrenner, Jr., Thomas E. Petri, Paul D. Ryan, Jr., Reid J. Ribble and Sean P. Duffy, (hereinafter collectively, "Republicans") timely filed a Motion to Intervene and Proposed Answer-in-Intervention, supporting the constitutionality of Act 44 without taking a position as to the claims regarding Act 43.

3. The Republicans' motion and accompanying brief describe why their intervention should be granted as a matter of right pursuant to Federal Rule of Civil Procedure 24 (a) and, alternatively, why permissive intervention is proper under Federal Rule of Civil Procedure 24 (b). The Republicans base their motion on their positions as incumbent Members of the United States House of Representatives. The Proposed-Intervenor Plaintiffs do not wish to use the Court's time to restate entirely the arguments made by the Proposed Intervenor-Defendants in their supporting brief, stating why incumbent Members of the House of Representatives should be granted leave to intervene, and will therefore briefly restate the arguments here.

2. This motion is timely and properly brought as the Proposed Intervenor-Plaintiffs have an interest in the matter which is the subject of this litigation, the disposition of this action

may impair or impede their interest, and because none of the current parties or parties with pending motions to intervene adequately represents the interest of the Proposed Intervenor-Plaintiffs. The Proposed Intervenor-Plaintiffs, like the Proposed Intervenor-Defendants, assert interests only arising out of and pertaining to the Congressional redistricting legislation of 2011 Wisconsin Act 44. Again, like the Proposed Intervenor-Defendants, and as reflected in the [Proposed] Intervenor-Complaint-in-Intervention, the Proposed Intervenor-Plaintiffs claim no interests as to issues arising out of the state legislative-redistricting legislation, 2011 Wisconsin Act 43.

3. Given the pending motion by the Proposed Intervenor-Defendants, intervention by the Proposed Intervenor-Plaintiffs will permit interested parties to participate in one action concerning the redistricting of Wisconsin's Congressional districts and the legality thereof. Any potential remedy in this action that affects the Republican Congressional districts of the Proposed Intervenor-Defendants will inevitably and necessarily affect the Congressional districts of the Proposed Intervenor-Plaintiffs. This will avoid the risk of inconsistent or incompatible results from multiple actions.

4. As an alternative, the Proposed Intervenor-Plaintiffs qualify for permissive intervention. Fed. R. Civ. P. 24 (b)(1)(B). There exists a commonality of issues between this issue and rights of the Proposed Intervenor-Plaintiffs related to redistricting. Proposed Intervenor-Plaintiffs seek to advance one or more of the same legal positions challenging the constitutionality and legality of Act 44 as those advanced by the current plaintiffs.

5. Permissive intervention by the Proposed Intervenor-Plaintiffs will not unduly delay any proceeding nor prejudice any current parties or parties with currently pending motions to intervene because the Proposed Intervenor-Plaintiffs seek to litigate facts and issues that have

already been raised by the parties in this action and because Proposed Intervenor-Plaintiffs are prepared to litigate in accordance with any and all scheduling orders that have been or will be issued by this Court.

6. Furthermore, Proposed Intervenor-Plaintiffs assert that their intervention is only necessary and proper if this Court grants the motion of the Proposed Intervenor-Defendants and file their Proposed Answer-in-Intervention. The Proposed Intervenor-Plaintiffs and Proposed Intervenor-Defendants are all incumbent Members of the United States House or Representatives who claim an interest in the disposition of the issues raised in this action by virtue of their positions and the fact they are running or might run for re-election in 2012.

7. While the Proposed Intervenor-Plaintiffs, the Democrats, agree with the allegations of the Plaintiffs in this action and assert that 2011 Wisconsin Act 44 is unconstitutional, the Proposed Intervenor-Defendants, the Republicans, seek to uphold the law. The Proposed Intervenor-Plaintiffs make this motion and seek leave to intervene only because equity demands that, should the Proposed Intervenor-Defendants, the Republicans, be permitted to intervene to support the legislation, the Democrats must be given the same opportunity to oppose the legislation. Both sides are claiming the same interest in the subject matter, albeit with opposing goals. Should one party be permitted to intervene, both should be. Conversely, should this Court deny the motion of the Proposed Intervenor-Defendants, the Proposed Intervenor-Plaintiffs reserve the right to withdraw this motion.

RELIEF REQUESTED

The Proposed Intervenor-Plaintiffs respectfully request that this Court enter an order granting their motion to intervene and to file the Proposed Complaint-in-Intervention.

Dated this 17th day of November, 2011

LAWTON & CATES, S.C.

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